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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/089,312	03/29/2002	Gregory Gregoriadis	G0365.0355/P355	7293

7590

11/28/2003

Dickstein Shapiro Morin & Oshinsky  
1177 Avenue of the Americas 41st Floor  
New York, NY 10036-2714

EXAMINER
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NGUYEN, DAVE TRONG

ART UNIT	PAPER NUMBER
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1632

DATE MAILED: 11/28/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/089,312	<b>Applicant(s)</b> GREGORIADIS ET AL.	
	<b>Examiner</b> Dave T. Nguyen	<b>Art Unit</b> 1632	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-49 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-49 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
     If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
     a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                             | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____.  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____. | 6) <input type="checkbox"/> Other: _____                                    |

## **Election/Restriction**

Species Restriction is required under 35 U.S.C. 121 and 372:

This application contains claims directed to more than one species of the generic invention. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

The species of the general formula II are as follows:

1/ Y is O;

Y is a bond;

Applicant is required to elect a single species of Y;

2/ X<sub>2</sub> is N or P when m is 3; X<sub>2</sub> is S when m is 2;

Applicant is further required to elect a single species of X<sub>2</sub>, wherein X<sub>2</sub> is particularly named for one of the listed atoms;

3/ A particular named species of R<sub>8</sub> as listed in claim 21;

Applicant is further required to elect a single species of R<sub>8</sub>;

The species of the general formula I are as follows:

4/ R<sub>5</sub> is a C<sub>1-8</sub> alkanediyl group;

R<sub>5</sub> is a bond;

Applicant is further required to elect a single species of R<sub>5</sub>Y;

5/ X<sub>1</sub> is N or P when n is 3; X<sub>1</sub> is S when m is 2;

Applicant is further required to elect a single species of X<sub>1</sub> wherein X<sub>1</sub> is particularly named for one of the listed atoms;

6/ A particular named species of R6 as listed in claim 22;

Applicant is further required to elect a single species of R6;

7/ A particularly named second zwitterionic phospholipids as listed in claim 32;

Applicant is further required to elect a single species of a second zwitterionic phospholipids;

Applicant is required, in reply to this action, to elect a single species to which the claims shall be restricted if no generic claim is finally held to be allowable. The reply must also identify the claims readable on the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

The claims are deemed to correspond to the species listed above in the following manner:

Claims 21, 22, 32, 36, 38, for example, correspond to all of the species listed above.

The following claim is generic: 21, 36, 48.

The species listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding special technical features for the following reasons:

Each of the named species does not share a structural feature in common with respect with one another. Thus, the requirement of unity of the invention is not fulfilled.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their divergent subject matter, restriction for examination purposes as indicated is proper, especially since it would be unduly burdensome for the examiner to search all of the claimed inventions being sought in the pending claims.

Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner *Dave Nguyen* whose telephone number is **(703) 305-2024**.

Art Unit: 1632

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, *Deborah Reynolds*, may be reached at **(703) 305-4051**.

Papers related to this application may be submitted to Group 1600 by facsimile transmission. Papers should be faxed to Group 1600 via the PTO Fax Center located in Crystal Mall 1. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The CM1 Fax Center number is **(703) 305-7401**.

Any inquiry of a general nature or relating to the status of this application should be directed to the *Group receptionist* whose telephone number is **(703) 308-0196**.

Dave Nguyen  
Primary Examiner  
Art Unit: 1632

A handwritten signature in black ink, appearing to read 'Dave', with a long horizontal flourish extending to the right.